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App. No. 09/788,331

Request for continued examination under 37 CFR §1.114  
Amendment under 37 CFR §1.111**REMARKS**

Claims 3, 5-15, 18, 20, 22, 24-54, and 59-60 remain pending in the application. Claims 8, 28-30, and 42-44 have been amended. Reexamination and reconsideration of the application, as amended, are hereby respectfully requested.

Applicants acknowledge allowance of Claims 3, 5-15, 18, 20, 22, 24-54, and 59-60 in the Notice of Allowance dated 06/21/2004. In a case recently decided by the United States Court of Appeals for the Federal Circuit (CAFC), however, certain language in one of the patents at issue, similar to language originally employed in some of the claims of the instant application, has been construed in a manner differing from that intended by the Applicants. It is not clear whether the CAFC claim construction is specific to the fact patterns of the decided case, or may be applied more generally. Accordingly, the claims in question have been amended so as to ensure that the claims will be construed in the manner originally intended by the Applicants.

The recently-decide case is *Superguide Corporation v. Directv, Inc.* (CAFC 02-1561, -1562, and -1594, decided 02/12/2004). At least within the context of *Superguide*, the Court has interpreted "at least one of" followed by a conjunctive list of items in the patent in suit (US 5038211) to mean at least one of *each* item in the list. In the instant application, the Applicants intended "at least one of" followed by such a list to mean at least one item *from* the list. It is presumed that this was the interpretation of the Examiner as well. Since the claim construction of the CAFC in *Superguide* may at least raise the possibility of a narrower claim construction than that intended by the Applicants, Claims 8, 28-30, and 42-44 have been amended. In each instance, the phrase "at least one of the first and second segments" has been replaced with --the first segment or the second segment--, which is intended to be interpreted as "the first segment, or the second segment, or both segments". (Bryan A. Garner, Elements of Legal Style p. 103, 2nd ed. 2002.) Applicants believe that this amendment does not change the scope of the amended claims from the scope originally intended. In particular, the amendments set forth herein are not narrowing amendments.

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In view of the above, it is submitted that Claims 3, 5-15, 18, 20, 22, 24-54, and 59-60 remain in condition for allowance. Allowance of Claims 3, 5-15, 18, 20, 22, 24-54, and 59-60 at an early date is earnestly solicited.

Respectfully submitted,



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